

105TH CONGRESS
1ST SESSION

S. 40

To provide Federal sanctions for practitioners who administer, dispense, or recommend the use of marihuana, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. FAIRCLOTH (for himself, Mr. INHOFE, and Mr. HELMS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide Federal sanctions for practitioners who administer, dispense, or recommend the use of marihuana, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Use Prevention
5 Act of 1997”.

6 **SEC. 2. DEFINITION OF “RECOMMEND”.**

7 Section 102 of the Controlled Substances Act (21
8 U.S.C. 802) is amended by adding at the end the follow-
9 ing:

1 “(47) A practitioner will be deemed to have
 2 ‘recommended’ the use of marihuana if the practi-
 3 tioner offered advice, or responded to a request for
 4 advice, suggesting the use of marihuana while acting
 5 in the course of his or her professional capacity.”.

6 **SEC. 3. DENIAL OR REVOCATION OF REGISTRATION.**

7 (a) DENIAL OF REGISTRATION.—Section 303(f) of
 8 the Controlled Substances Act (21 U.S.C. 823(f)) is
 9 amended—

10 (1) by redesignating paragraphs (1) through
 11 (5) as subclauses (I) through (V), respectively, and
 12 indenting accordingly;

13 (2) by striking “(f) The Attorney General” and
 14 inserting the following:

15 “(f) REGISTRATION OF PRACTITIONERS TO DIS-
 16 PENSE OR CONDUCT RESEARCH WITH CONTROLLED
 17 SUBSTANCES.—

18 “(1) IN GENERAL.—Subject to paragraph (2),
 19 the Attorney General”;

20 (3) in the second sentence, by striking “The At-
 21 torney” and inserting the following:

22 “(2) DENIAL OF REGISTRATION.—

23 “(A) DISCRETIONARY DENIAL OF APPLICA-
 24 TION.—

25 “(i) IN GENERAL.—The Attorney”;

(4) in the third sentence, by striking “In determining the public interest” and inserting the following:

“(ii) DETERMINATION OF PUBLIC INTEREST.—In determining the public interest for purposes of clause (i)”;

(5) in the undesignated paragraph following subclause (V), as redesignated by paragraph (1) of this subsection, by striking “Separate registration” and inserting the following:

“(3) REGISTRATION FOR RESEARCH PURPOSES.—Separate registration”; and

(6) by adding at the end of paragraph (2), as so designated by paragraph (3) of this subsection, the following:

“(B) MANDATORY DENIAL OF APPLICATION.—The Attorney General shall deny an application for registration under this subsection upon a finding by the Attorney General that the applicant practitioner—

“(i) administered, dispensed, or recommended the use of marihuana to an individual in violation of Federal or State law; or

1 “(ii) has been excluded (or directed to
 2 be excluded) from participation in a pro-
 3 gram pursuant to section 1128(a)(5) of the
 4 Social Security Act (42 U.S.C. 1320a-
 5 7(a)(5)).”.

6 (b) REVOCATION OF REGISTRATION.—Section 304(a)
 7 of the Controlled Substances Act (21 U.S.C. 824(a)) is
 8 amended—

9 (1) in subsection (a)—

10 (A) by redesignating paragraphs (1)
 11 through (5) as subparagraphs (A) through (E),
 12 respectively, and indenting accordingly;

13 (B) by striking “(a) A registration” and
 14 inserting “(a)(1) Subject to paragraph (3), a
 15 registration”; and

16 (C) in the undesignated paragraph follow-
 17 ing subparagraph (E), as redesignated, by
 18 striking “A registration” and inserting the fol-
 19 lowing:

20 “(2) REVOCATION OF REGISTRATION TO DIS-
 21 PENSE A NARCOTIC DRUG.—A registration”;

22 and

23 (2) by adding at the end the following:

24 “(3) MANDATORY REVOCATION OF REGISTRA-
 25 TION.—The Attorney General shall revoke a reg-

1 istration described in paragraph (1) upon a finding
2 by the Attorney General that the registrant—

3 “(A) administered, dispensed, or rec-
4 ommended the use of marihuana to an individ-
5 ual in violation of Federal or State law; or

6 “(B) has been excluded (or directed to be
7 excluded) from participation in a program pur-
8 suant to section 1128(a)(5) of the Social Secu-
9 rity Act (42 U.S.C. 1320a–7(a)(5)).”.

10 **SEC. 4. PROHIBITED ACTS RELATING TO MARIHUANA.**

11 Section 403(a) of the Controlled Substances Act (21
12 U.S.C. 843(a)) is amended—

13 (1) in paragraph (3), by inserting before the
14 semicolon “, including acquiring or obtaining posses-
15 sion of marihuana by means of claiming a medical
16 need, with the intent of selling or distributing the
17 marihuana”;

18 (2) in paragraph (8), by striking “or” at the
19 end;

20 (3) in paragraph (9), by striking the period at
21 the end and inserting “; or”; and

22 (4) by adding at the end the following:

23 “(10) if that person is a practitioner, to pre-
24 scribe, dispense, or recommend the use of mari-
25 huana.”.

1 **SEC. 5. ENHANCED PENALTIES RELATING TO MARIHUANA.**

2 Section 403 of the Controlled Substances Act (21
3 U.S.C. 843) is amended by adding at the end the follow-
4 ing:

5 “(g) In addition to any other applicable penalty, any
6 practitioner who violates this section by prescribing, dis-
7 pensing, or recommending the use of marihuana to a per-
8 son under 21 years of age shall be sentenced to a term
9 of imprisonment of not more than 8 years, a fine of not
10 more than \$60,000, or both.”.

11 **SEC. 6. EXCLUSION OF CERTAIN INDIVIDUALS AND ENTI-**
12 **TIES FROM PARTICIPATION IN MEDICARE**
13 **AND STATE HEALTH CARE PROGRAMS FOR**
14 **ILLEGALLY DISPENSING MARIHUANA.**

15 Section 1128(a) of the Social Security Act (42 U.S.C.
16 1320a–7(a)) is amended by adding at the end the follow-
17 ing:

18 “(5)(A) Any person (including an organization,
19 agency, or other entity, but excluding a beneficiary,
20 as defined in subsection 1128A(i)(5)) that admin-
21 isters, dispenses, or recommends the use of mari-
22 huana to an individual in violation of a Federal or
23 State law.

24 “(B) In this paragraph, the terms ‘administer’,
25 ‘dispense’, ‘recommend’, and ‘marihuana’ have the

- 1 same meanings as in section 102 of the Controlled
- 2 Substances Act (21 U.S.C. 802)).”.

